



State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 Northern Region
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www.wildlife.ca.gov

GAVIN NEWSOM, Governor
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December 2, 2020

Governor's Office of Planning & Research

Dec 02 2020

Kim Hunter, Planning Director
 Trinity County Planning Department
 P.O. Box 2819
 Weaverville, CA 96093

STATE CLEARINGHOUSE

Subject: Review of the Draft Initial Study/Proposed Mitigated Negative Declaration for the Caccavo Cannabis Cultivation Conditional Use Permit and Variance Project (CCUPT3-2018-001), State Clearinghouse Number 2020110041, Trinity County APN 015-030-01

Dear Kim Hunter:

The California Department of Fish and Wildlife (Department) has reviewed the Draft Initial Study/ Proposed Mitigated Negative Declaration (MND) dated October 2020, for the above-referenced project (Project). As a trustee for the State's fish and wildlife resources, the Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and their habitat. As a responsible agency, the Department administers the California Endangered Species Act (CESA) and other provisions of the Fish and Game Code (FGC) that conserve the State's fish and wildlife public trust resources. The Department offers the following comments and recommendations on this Project in our role as a trustee and responsible agency pursuant to the California Environmental Quality Act (CEQA), California Public Resources Code section 21000 et seq. The Department commented on this Project January 29, 2018 during the early consultation period. The Department appreciates the incorporation of our comments into the MND.

Project Description

The Project as proposed *“includes the expansion of cannabis cultivation operations on the existing site. The applicant is currently licensed to cultivate up to 10,000 square feet of mature cannabis canopy and is applying for an expansion to allow up to one-acre of outdoor and/or mixed light mature cannabis canopy area. Cultivation would occur in outdoor raised beds and within greenhouses that would be developed on four previously or recently cleared portions of the project site that were historically used as log landings. The variance is required for the project since one of the proposed cultivation areas does not comply with the 500- foot property line setback requirement in Trinity County Ordinance 315-823. The mixed-light cultivation activity will not require artificial lighting or additional electricity use. It is proposed to occur with the use of blackout tarps to allow the applicant to have multiple harvests during the growing season.”*

Conserving California's Wildlife Since 1870

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Comments and Recommendations

The Department has the following comments and recommendations:

Proposed Irrigation

The Site Plan map included within the MND shows that cultivation will occur at four distinct locations distributed across the 640-acre parcel. A single 220-foot deep groundwater well will provide irrigation to all four sites by distributing water to thirteen (13) 2,500-gallon water storage tanks distributed at each cultivation site via an irrigation line crossing the majority of the parcel.

“Water from the groundwater well is pumped from the well to tanks existing near the well. From there, water is pumped through a pipeline to the water tanks at Area 1. The water is then gravity fed through the pipeline down to the remaining water tanks at cultivation areas 2-4.”

The Site Plan discloses that this irrigation line will cross at least two Class II or III streams as it bisects the parcel to reach each of the cultivation sites. Wildlife that occupies this forested environment commonly chew through irrigation lines in search of water, and broken water lines are left behind as litter. There is no discussion in the MND describing the size of this pipeline, how it will cross these stream channels, or if there will be monitoring and maintenance associated with the permanent water line to keep it in good working order.

In lieu of clustering the cultivation all in one discrete location on the property in order to avoid additional ground disturbance, the Department recommends that the Project, or irrigation specifically, is designed in a manner that precludes several thousand feet of irrigation line spanning the parcel and crossing several stream channels. If the irrigation line is buried beneath the ground surface, the impacts associated with trenching and burying should be discussed in the MND. Methods for crossing streams should also be described in the MND.

Electricity

Throughout the document, electricity use is repeatedly described as being limited since the proposed project would use natural light for cultivation and allegedly use no artificial lighting. During site build out, energy from generators would be needed to provide “temporary power for lighting and electronic equipment.” Furthermore, once water is pumped to tanks at Area 1, water will be gravity fed to the other three locations, precluding the need for electricity to fill water storage tanks at each of the four cultivation areas. However, permanent generators are proposed to be located at each of these sites.

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The generators are described as 25-watt generators, although this is likely a typo, as this number seems too low to produce adequate electricity. They are described as stationary generators occupying 4-foot by 8-foot concrete basins with a fuel capacity of 55 gallons. A generator of that size likely produces more energy than 25-watts.

There is no discussion in the MND about how often the generators will run, how loud each will be, or how far sound will travel from the remote ridge-top cultivation sites. The use of four generators are determined to have a less than significant impact because of the Projects' distance to nearby sensitive receptors. The Department disagrees with this conclusion.

In the Noise section of the MND, the hours of operation of the generators are "typically limited" to daytime hours. If electricity use is needed for security lighting, limiting the use to daytime hours seems contradictory unless they are charging battery banks. The Department recommends a mitigation measure or an enforceable Use Permit condition that precludes running the generators from dusk until dawn.

Mitigation Measure Bio-1 includes a measure that states: "No loud noises including heavy machinery, hammering, discharge of firearms, or unmuffled generators are allowed during the breeding and nesting window to avoid impacts to Northern Spotted Owl (*Strix occidentalis*) and American Peregrine Falcon (*Falco peregrinus anatum*), which is generally February 1 to September 1."

This measure could be more effective if there were specific noise buffers around known nest or activity sites, as preventing "loud noises" across a 640-acre parcel is difficult to consistently enforce.

Since electricity demands appear limited to security lighting and occasional equipment use, the Department recommends generators be enclosed within a permanent structure which will muffle all noise. The use of portable on-demand generators for equipment needs and solar security lighting would likely prevent the need to build enclosures for large generators.

Foothill Yellow-Legged Frog

Mitigation Measure BIO-2 incorporates a comment from an incomplete letter for a previous Notification of Lake or Streambed Alteration, dated October 3, 2019, that stated "if foothill yellow-legged frogs (*Rana boylei*) are observed (during dewatering activities associated with bridge replacement), a CESA permit shall be obtained by the project applicant." At its December 2019 meeting, the California Fish and Game Commission took action regarding the proposed listing for foothill yellow-legged frog and decided that listing the North Coast clade is not warranted at this time. While it is still considered a Species of Special Concern, a CESA permit is not required should

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this species be present within the project footprint. The MND should reflect the current status and propose avoidance and minimization measures for this species.

Lake or Streambed Alteration Agreement

Annual licenses for commercial cannabis cultivation issued by the California Department of Food and Agriculture require the applicant to demonstrate compliance with Fish and Game Code section 1602. Compliance must be demonstrated with a Lake or Streambed Alteration (LSA) Agreement or written verification that an LSA Agreement is not required. The applicant submitted a Notification on September 3, 2019, however the Notification was closed due to lack of response on June 30, 2020. The Department requests the applicant begin the online notification process by utilizing the Environmental Permit Information Management System (EPIMS) available at <https://epims.wildlife.ca.gov/>. In addition to disclosed stream crossing upgrades, proposed water lines across streams may require notification pursuant to Fish and Game Code section 1602.

The Department's issuance of an LSA Agreement for a project that is subject to CEQA will require CEQA compliance actions by the Department as a Responsible Agency. The Department as a Responsible Agency under CEQA may consider the local jurisdiction's (Lead Agency) CEQA document for the Project. To minimize additional avoidance, minimization and mitigation requirements by the Department pursuant to FGC section 1600 et seq. and/or under CEQA, the CEQA document should fully identify the potential impacts to lakes, streams and associated riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for issuance of the LSA Agreement.

If you have any questions, please contact Kate Blanchard, Senior Environmental Scientist (Specialist), at (530) 225-2239, or by e-mail at katherine.blanchard@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Curt Babcock
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Curt Babcock
Habitat Conservation Program Manager

cc: Kim Hunter, Planning Director
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